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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,238	04/11/2002	Kevan Hatchman	01795/HG	8870
23377	7590	04/07/2005	EXAMINER	
WOODCOCK WASHBURN LLP ONE LIBERTY PLACE, 46TH FLOOR 1650 MARKET STREET PHILADELPHIA, PA 19103			LEWIS, AMY A	
			ART UNIT	PAPER NUMBER
			1614	

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/018,238	HATCHMAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Amy A. Lewis	1614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 December 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3 and 5-7 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-3 and 5-7 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/7/2001</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Status of the Case***

The preliminary amendment, filed 11 April 2002, has been received and entered into the application. Accordingly, the specification has been amended, claim 4 has been cancelled, and new claims 6 and 7 have been added.

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy of PCT/EP00/05341, with a filing date of 9 June 2000, has been filed in the instant application.

### ***Restriction/Election of Species***

Applicant's election, with traverse, of the species mineral oil in the response to restriction requirement filed on 10 December 2004, is acknowledged.

Claims have been examined to the extent that they read on the elected species of mineral oil. Claims 1-3 and 5-7 are pending in this application.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- 1) Claims 1-3 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Markland et al. (US Pat. 3,228,842).

Markland et al. (US '842) describes compositions comprising water, mineral oil, oil soluble surfactants, and hydrophilic surfactants (emulsifiers). The compositions of Markland et al. are described as transparent mineral oil-water-gels (col. 1, lines 8-11). Example 1 discloses a composition comprising 20% mineral oil, 15% surfactant with an HLB value of between 12.7 and 15.0, and 10% surfactant with an HLB value of between 1.6 and 7.6 (col. 4, Example 1; col. 4, lines 10-25). The ratio of oil to oil soluble surfactant is 2:1 and the ratio of oils soluble to hydrophilic surfactant is 1:1.5. The reference also describes a method for preparing compositions according to claim 1 (col. 4, lines 35-62): the mineral oil and the oil soluble surfactant are mixed and then a mixture of water and the hydrophilic surfactant is added. Water is added after the resulting mixture has been heated to a temperature above the  $I_1/L_1$  transition temperature, and the gel forms upon cooling (col. 4, lines 35-50).

- 2) Claims 1-3 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Markland et al. (DE 1467825 A), cited on PTO form 1449.

Markland et al. (DE '825) is viewed as equivalent to Markland et al. (US '842). Markland et al. (DE '825) describes compositions comprising water, mineral oil, oil soluble surfactants, and hydrophilic surfactants. The compositions of Markland et al. are described as transparent mineral oil-water-gels. Example 1 discloses a composition comprising 20% mineral oil, 15% surfactant with an HLB value of between 12.7 and 15.0, and 10% surfactant with an

HLB value of between 1.6 and 7.6 (p. 12, Example 1; p. 10, lines 10-14). The ratio of oil to oil soluble surfactant is 2:1 and the ratio of oils soluble to hydrophilic surfactant is 1:1.5. The reference also describes a method for preparing compositions according to claim 1 (See p. 10, 3<sup>rd</sup> paragraph – p. 11, 2<sup>nd</sup> paragraph) wherein mineral oil and the oil soluble surfactant are mixed and then a mixture of water and the hydrophilic surfactant is added. Water is added after the resulting mixture has been heated to a temperature above the I<sub>1</sub>/L<sub>1</sub> transition temperature. A cooling step is implicit.

*Pertinent Art*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Schroder et al. (US Pat. 5,298,240) teaches a composition containing: 50-89.5% water; 5-20% surfactant with an HLB value from 5-12; and 5-20% of at least one oil (abstract).

Contact Information:

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy A. Lewis whose telephone number is (571) 272-2765. The examiner can normally be reached on Monday-Friday, 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Low can be reached on (571) 272-0951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Amy A. Lewis  
Patent Examiner  
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